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8 Attorneys for Defendant

9 San Jose Police Officers' Association ("SJPOA")

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

12 CITY OF SAN JOSE,

13 Plaintiff,

14 v.

15 SAN JOSE POLICE OFFICERS'  
ASSOCIATION; SAN JOSE  
16 FIREFIGHTERS, I.A.F.F., LOCAL 230;  
MUNICIPAL EMPLOYEES'  
17 FEDERATION, AFSCME, LOCAL 101;  
CITY ASSOCIATION OF  
18 MANAGEMENT PERSONNEL, IFPTE,  
LOCAL 21; INTERNATIONAL UNION  
19 OF OPERATING ENGINEERS, LOCAL  
NO. 3 and DOES 1-10,

20 Defendants.

No. C12-02904 LHK PSG

**STIPULATION REGARDING BIFURCATED  
PROCEDURE FOR MOTION BY SAN JOSE  
POLICE OFFICERS' ASSOCIATION FOR  
DETERMINATION OF ENTITLEMENT OF  
ATTORNEYS' FEES AND [PROPOSED]  
ORDER  
[CAL. CODE OF CIV. P. SECTION 1021.5]**

22  
23 Defendant San Jose Police Officers' Association ("Defendant SJPOA") intends  
24 to file a Motion for Attorneys' Fees and Costs based on the voluntary dismissal by  
25 Plaintiff City of San Jose ("Plaintiff") of its Complaint on October 1, 2012.

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CBM-SFSF568378.6

STIPULATION REGARDING DETERMINATION OF ENTITLEMENT OF ATTORNEYS' FEES (NO. C12-02904 LHK PSG)

1 Defendant SJPOA intends to rely on California Code of Civil Procedure Section 1021.5,  
2 which provides in pertinent part:

3 "Upon motion, a court may award attorneys' fees to a successful  
4 party against one or more opposing parties in any action which has  
5 resulted in the enforcement of an important right affecting the  
6 public interest if: (a) a significant benefit . . . has been conferred on  
7 the general public or a large class of persons, (b) the necessity and  
8 financial burden of private enforcement . . . are such as to make the  
9 award appropriate, and (c) such fees should not in the interest of  
10 justice be paid out of the recovery, if any."

11 Plaintiff contends that Defendant SJPOA is not entitled to fees and costs under  
12 Section 1021.5 or any other basis. The parties have agreed that Defendant SJPOA's  
13 motion will ask the Court initially to consider only whether Defendant SJPOA is entitled  
14 to attorneys' fees or costs and not to determine the amount of fees or costs. If the Court  
15 determines that Defendant SJPOA is entitled to a fee award pursuant to California Code of  
16 Civil Procedure Section 1021.5, or costs, the parties will meet and confer regarding a  
17 stipulated agreement on the total amount of attorneys' fees and costs, to be filed within 60  
18 days after the entry of the Court's determination on the matter of entitlement. In the event  
19 the parties are unable to form a stipulated agreement, Defendant SJPOA will file  
20 supplemental pleadings regarding the amount of any award. Plaintiff reserves the right to  
21 file an opposition thereto.

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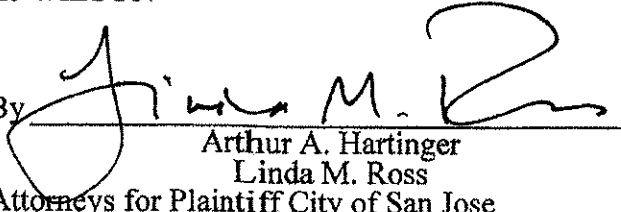
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1 Dated: December 14 2012

2 MEYERS NAVE REBACK SILVER  
3 & WILSON


4  
5 By

6   
7 Arthur A. Hartinger  
8 Linda M. Ross  
9 Attorneys for Plaintiff City of San Jose

10 Dated: December 11, 2012

11 CARROLL, BURDICK & McDONOUGH LLP

12 By

13   
14 Gregg McLean Adam  
15 Jonathan Yank  
16 Gonzalo Martinez  
17 Amber L. West  
18 Attorneys for Defendant  
19 San Jose Police Officers' Association

20 The above request by Plaintiff City of San Jose and Defendant San Jose Police  
21 Officers' Association is granted.

22 **IT IS SO ORDERED.**

23 Dated: \_\_\_\_\_

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\_\_\_\_\_  
Hon. Lucy H. Koh  
U.S. District Court Judge